

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Dillon	Team: Team # 1	CCRB Case #: 200400963	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/30/2004 10:00 AM	Location of Incident: § 87(2)(b)	Precinct: 105	18 Mo. SOL 7/30/2005	EO SOL 7/30/2005	
Date/Time CV Reported Fri, 01/30/2004 4:31 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/30/2004 4:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Edmonds	04823	930090	105 PCT
2. POM John Bulone	04704	929797	105 PCT
3. POM Jason Chambers	14419	928051	105 PCT
4. SGT Ronald Marti	01975	897971	105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lisa Hofelich	05730	928494	105 PCT
2. POM Michael Lamere	09987	931778	105 PCT
3. POF Bonnie Gerth	26360	930210	105 PCT
4. POM Michael Plate	27668	899724	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Ronald Marti	Abuse: SGT Ronald Marti authorized officers to enter and search § 87(2)(b) of § 87(2)(b) in Queens.	§ 87(2)(b)
B.SGT Ronald Marti	Abuse: SGT Ronald Marti damaged § 87(2)(b) s property.	§ 87(2)(b)
C.POM Michael Edmonds	Force: PO Michael Edmonds pointed his gun at § 87(2)(b)	§ 87(2)(b)
D.POM John Bulone	Force: PO John Bulone pointed his gun at § 87(2)(b)	§ 87(2)(b)
E.POM Jason Chambers	Force: PO Jason Chambers pointed his gun at § 87(2)(b)	§ 87(2)(b)

## Synopsis

On January 30, 2004, at approximately 10:00 AM, an anonymous female caller reported that she witnessed a male crawling into the ground floor window of [§ 87(2)(b)]. Three sectors and the patrol supervisor from the 105<sup>th</sup> Precinct responded to the location. When officers knocked on the front door they were greeted by a male of Middle Eastern decent, who permitted them to enter the house. The officers discovered two other males of Middle Eastern decent in a room further inside the house. The three males provided identification that did not list their current location as their residence. The males could not clearly tell the officers what the address of their current location was. Consequently the officers became suspicious. A fourth male arrived at the house and stated to the officers that the three males did, in fact, reside at the location. The officers asked questions concerning the basement, which was a separate apartment. The door on the interior of the house, which led to the basement, was screwed shut. SGT Ronald Marti ordered PO Jason Chambers, PO John Bulone, and PO Michael Edmonds to remove the screws from the door and enter the basement. The three officers complied and proceeded into the basement with their guns drawn. They performed a sweep of the basement apartment. When PO Edmonds opened the bathroom door, he found [§ 87(2)(b)] taking a shower. [§ 87(2)(b)] was startled to find a police officer pointing a gun at her in her apartment while she was taking a shower. The officers identified [§ 87(2)(b)] and explained to her why they were present on the scene. [§ 87(2)(b)] stated that the officers broke the frame of the door leading to the basement when they entered, but did not repair the damage. Following this, the officers left the location.

§ 87(2)(g) [REDACTED]

## Summary of Complaint

On March 3, 2004, at 3:15 PM, § 87(2)(b) was interviewed at the CCRB. (enclosure 6) § 87(2)(b), § 87(2)(b)'s attorney, was also present for the interview. § 87(2)(b) is a § 87(2)(b) old black female, who is employed as a § 87(2)(b). § 87(2)(b) lives in the downstairs apartment of § 87(2)(b) in Queens. § 87(2)(b) stated that on January 30, 2004, at approximately 10:00 AM, she was at home, alone, and was taking a shower. Her bathroom door was closed. § 87(2)(b) heard what sounded like the door handle turning, as if someone was on the other side of the door. She opened her shower door and found at least six uniformed officers standing in the doorway of her bathroom with their guns drawn and pointed at her. § 87(2)(b) stated that she believed that there were six guns pointed at her and was unsure of how many officers there were. In addition, several flashlights were pointed at her naked body. § 87(2)(b) was terrified by the intrusion. "What's going on?" asked § 87(2)(b). She was ordered out of the bathroom and told to get dressed. "Get dressed. Get out of the bathroom," ordered one of the officers. "I don't understand," said § 87(2)(b). Again the officer ordered her to get dressed. "I don't have a robe. I would like some privacy, please," said § 87(2)(b). The officers refused and continued to tell her to get out of the bathroom. § 87(2)(b) walked into her bedroom where she put on some clothes. The entire time she was changing, the officers watched through her bedroom door. She stated that they were talking amongst themselves and laughing while she was getting dressed. She remembered one of the officers saying, "She took it pretty well." § 87(2)(b) stated that she felt humiliated.

Once she was dressed an unidentified officer requested her identification. § 87(2)(b) returned to her bedroom and retrieved her passport from her purse. When the officer looked at her passport, he read out loud her middle name, "§ 87(2)(b)". The officers jokingly referred to § 87(2)(b) as "§ 87(2)(b)" throughout the rest of the incident. Another officer asked if she had any other identification. § 87(2)(b) retrieved an

old driver's license of hers. She gave it to the officer, who then remarked to another officer that the license was the same as that under which the car in the driveway was registered. § 87(2)(b) realized that the officers must have run her plates prior to entering her apartment. § 87(2)(b) was asked by a male Hispanic officer with bad skin, dark hair, and approximately 5'8" tall if she lived at the location. She replied, "Yes." She was then asked who was the owner of the location. "I am," she replied. The officer asked about § 87(2)(b)'s employment. The officer then asked if she called the police. § 87(2)(b) said that she did not. § 87(2)(b) told the officer that she did not understand why the officers would come into her home unannounced. The officer explained that they had received a call that a boy had crawled through the window on the main floor of the house. § 87(2)(b) asked if the officers had spoken to the family that lives on that floor, which is the floor above hers. The officer replied that they did and that they had requested identification from them. § 87(2)(b) went upstairs to the apartment above hers to speak with the tenants. She noticed that the door that separates their apartments had been broken in and apparently pried open, as the doorframe was broken. § 87(2)(b) was confused as to why the police had entered her apartment, as the police had already spoken to the tenants upstairs and all the entries to her apartment were locked. She asked her tenants what had happened. They stated that their son had climbed through the window because he did not have his key. Someone had called the police when they saw him do this. They told the police that the boy was their son and showed them identification. They had verified that they lived there and actually told the police that § 87(2)(b) the landlord, lived downstairs.

§ 87(2)(b) asked the officer with the bad skin why they had to enter her apartment if they had verified that the boy lived at the location and that there was no problem. The officer responded with a "smart remark" saying, "Do they pay the rent on time?" § 87(2)(b) did not answer the officer. Shortly thereafter, the officers left her home. She believed that they were at the location for approximately thirty minutes. § 87(2)(b) stated that no items had been moved or were missing from her home. However, prior to seeing the officers in her apartment, she did not know how long they were inside. § 87(2)(b) did not remember what any of the officers looked like other than the officer with the bad skin. She clearly remembered this officer because she claimed that he did most of the talking. § 87(2)(b) was emotionally traumatized from this incident. She stated that she is now seeing a psychiatrist and can no longer take a shower while at home alone. § 87(2)(b) explained that there was no reason for the officers to enter her apartment. First of all, the upstairs tenants had already explained to them what had happened. The entrance to her apartment is on the side of the house, while her tenant's apartment's entrance is at the front of the house. Furthermore, the boy was witnessed crawling into a window on the main floor of the house. § 87(2)(b) did not know why the officers went down the stairs and broke down the door that separated the apartments. Her door has not yet been repaired.

### **Results of Investigation**

#### **Witnesses**

At the time of her interview, § 87(2)(b) was not able to provide any of the names of her tenants. She was contacted following the interview and she provided the name § 87(2)(b) and a telephone number at which he could be reached. Two telephone calls were made and a letter was sent before § 87(2)(b) was successfully contacted via telephone. § 87(2)(b) scheduled an appointment to be interviewed at § 87(2)(b) on March 18, 2004. However, no one answered the door at the specified date and time. Consequently, § 87(2)(b) was not interviewed. The location was visited a second time on April 15, 2004, and, again, no one answered the door. In addition, two letters were sent to § 87(2)(b) and § 87(2)(b) instructing them to contact the CCRB. None of these three individuals contacted the CCRB. Therefore, no witness statements were obtained in connection with this investigation.

#### **Officers**

##### **SGT Ronald Marti**

SGT Marti does not have a memo book entry for this incident.

On March 30, 2004, at 11:00 AM, SGT Ronald Marti, shield number 1975, was interviewed at the CCRB. (enclosure 11) SGT Marti stated that on January 30, 2004, he was assigned as the 105<sup>th</sup> Precinct patrol supervisor and was partnered with PO Plate. SGT Marti stated that at approximately 10:00 AM, he responded to a call for a burglary in progress. The caller stated that a man was seen climbing in through a

window at § 87(2)(b) SGT Marti stated that the caller was not identified. SGT Marti could not recall where he was when he received the call or how long it took him to respond to the location. When SGT Marti arrived he found that a number of sector cars from the 105<sup>th</sup> Precinct had already arrived, although he was not sure of which sectors they were. He recalled that PO Hofelich, PO Bulone, PO Lamere, PO Edmonds, PO Chambers, and PO Gerth were present for the job. Some of the officers had already entered the first floor apartment, while others covered the rear and side entries of the house in case the alleged burglar attempted to flee the premises. SGT Marti was not sure which officers were posted where. SGT Marti stated that the people inside the house did not speak English very well and were of Middle Eastern decent. He believed that there were three or four tenants in the first floor apartment. He also stated that there was a male and a female with children living on the second floor. SGT Marti stated that he looked around the apartment to find out what was going on. When he spoke to the officers inside the house, SGT Marti stated that they told him that they were having trouble communicating with the individuals and that the situation looked suspicious. None of the tenants could provide the proper address to the location and they were not providing their names. SGT Marti was not sure which officer reported this information to him.

SGT Marti explained that when officers respond to a job concerning a burglary in progress, they need to clear the house for safety reasons. Specifically, the officers have to make sure that there is no burglar inside the location before they leave. This means that they must look into all of the rooms for a potential perpetrator.

He stated that he saw that there were mattresses on the floor and the people living there were living out of suitcases. SGT Marti noted that this is one of the “terrorist tips” concerning possible terrorist activity. However, SGT Marti stated that terrorism was not his main concern at the time, rather he wanted to make sure that there was no burglar inside of the location. SGT Marti stated that they banged on the door that lead to the basement numerous times and shouted, “Police, open up!” There was no number on the door indicating that the door was an entrance to a separate apartment. He stated that officers also knocked on the outside entrance to the basement, but no one answered. SGT Marti asked the tenants on the first floor about the basement, but they could not give a positive answer. SGT Marti stated that there were screws going through the door preventing the door leading to the basement from being opened. SGT Marti interviewed the tenants on the second floor concerning who lived downstairs and if they might be home. While SGT Marti was conducting this interview, he claimed that his officers proceeded into the basement apartment.

SGT Marti stated that PO Plate told him to come downstairs. SGT Marti claimed that the officers had removed the screws from the door in order to gain access. He stated that he never directly ordered the officers to search the basement. He claimed that no damage was done to the door in the process. However, SGT Marti claimed that he was not present for the removal of the screws. He ran downstairs to find a black female, later identified as § 87(2)(b) who was wearing a towel, coming out of the bathroom. PO Bulone and PO Edmonds were both downstairs as well. SGT Marti stated that both officers had informed him that they had their weapons drawn when they entered the basement. He asked § 87(2)(b) if she lived there and she said that she did. He asked her if she heard the officers knocking on her doors. § 87(2)(b) stated that she did not hear anyone. SGT Marti explained to § 87(2)(b) that there was a report of a burglary at the location. He asked her if anyone was downstairs with her and she responded that no one else was downstairs. SGT Marti told her to get dressed and to come upstairs so he could explain what was going on. SGT Marti characterized § 87(2)(b)'s demeanor during this interaction as being “very calm.” When § 87(2)(b) came upstairs, SGT Marti told her the details of the situation. SGT Marti stated that she “seemed to be satisfied” with the explanation. SGT Marti stated that § 87(2)(b) stated that this was the second time that someone had made such a complaint concerning her house. Upon hearing this SGT Marti said to § 87(2)(b) “Obviously someone doesn’t like you or doesn’t like what’s going on in here.” SGT Marti stated that “that was it” and he told his officers to get the names of all of the tenants and then left the scene. SGT Marti claimed that § 87(2)(b) never requested that her door be repaired.

SGT Marti stated that one of the tenants on the second floor spoke partial English and explained that one of the tenants on the first floor “did, in fact, go through the window.” SGT Marti claimed that he only

received this information after the search of the basement apartment had occurred. § 87(2)(b), § 87(2)(e)

§ 87(2)(b) SGT Marti stated that they entered the basement because the 911 call stated that it was a ground floor window that the perpetrator entered. The basement windows of the location were on the ground floor outside of the house.

#### **PO Michael Plate**

PO Plate does not have a memo book entry for this incident.

On June 24, 2004, at 11:15 AM, PO Michael Plate, shield number 27668, was interviewed at the CCRB. (enclosure 14) PO Plate stated that on January 30, 2004, he was assigned as the operator for SGT Ronald Marti. At approximately 10:00 AM, PO Plate responded to a call for a burglary in progress at § 87(2)(b). PO Plate stated that when they arrived at the location, SGT Marti instructed him to remain outside of the location to watch the perimeter of the house, so that if anyone attempted to flee, he would see them. In addition, he was also asked to watch the RMP's that were parked in the street. PO Plate stated that he positioned himself in the street next to the vehicles for the duration of the incident. At no time did he ever enter the location or interact with any civilians. PO Plate had no knowledge of what occurred inside of the apartment.

#### **PO John Bulone**

PO Bulone's memo book entries for this incident read as follows:

0930 – 10-31 § 87(2)(b)  
0940 – 93Q § 87(2)(b) § 87(2)(b)  
1037 – QAAB § 87(2)(b) – burg susp

On March 18, 2004, at 11:08 AM, PO John Bulone, shield number 4704, was interviewed at the CCRB. (enclosure 8) He stated that on January 30, 2004, he was assigned to patrol in sector A/B and working with PO Michael Edmonds. At approximately 10:00 AM, they received a call concerning a breaking and entering at § 87(2)(b). The call that went over the air stated that the person entered the location through the basement window. PO Bulone stated that his was the second or third unit on the scene. When they arrived, they performed a search of the location's perimeter. The officer did not see any signs of forced entry. Following the perimeter search, they knocked on the front door. A § 87(2)(b)-old male of Middle Eastern decent answered the door. The officers requested identification from the male. He could not provide identification, but claimed that he resided at the location. The officers asked him if they could come inside in order to verify that he lived there. The male allowed the officers entry to the location. The officers asked the male if anyone else was inside the house. He replied that no one else was home. PO Bulone stated that the home looked "in shambles." There were some mattresses on the floor, some clothes strewn about, and just a television and a refrigerator. PO Bulone looked inside the back room of the house and found two males in their twenties of Middle Eastern decent under a pile of clothes and some blankets. PO Bulone was not sure if the males were attempting to hide from the officers. PO Bulone asked the two males to come to the front of the house. The three males sat on the couch in the front of the house and were questioned. It was explained to the males why the officers came to their house. The males claimed to not know anything about a person climbing through the window. The two males that were found in the back room did not speak English well. In addition, they did not have identification that identified them as residing at the location. The officers asked the males if there was anyone else home who could verify that they lived there. They replied that there was no one that could do so.

PO Bulone and some of the other officers went to the upstairs apartment and discovered a female who lived there. He stated that this woman did not speak English. All she could say to the officer was "my husband." PO Bulone asked the males downstairs if they were married to the woman upstairs. They said that they were not. The officers attempted to contact the woman's husband in order for him to verify that the males downstairs lived at the location. In the meantime, SGT Ronald Marti and another unit arrived on the scene. PO Bulone stated that noises could be heard coming from the downstairs apartment. He stated that it sounded like someone was moving about in the basement. The officers knocked on the door that led to the downstairs apartment, but no one responded. PO Bulone and PO Edmonds went outside to the side door that also led to the downstairs apartment. They knocked on the outside door for several minutes, but no one

responded. They returned inside and were told by SGT Marti that they needed to gain entry to the downstairs apartment. There was a latch on the inside door that was held on with screws. The officers obtained a screwdriver and removed the latch that kept the door from being opened.

PO Bulone, PO Edmonds, and PO Jason Chambers entered the downstairs apartment. The officers proceeded with their guns drawn and flashlights on. PO Bulone checked the room to their left while the other officers checked the room to the right. As PO Bulone was in the room, he heard PO Edmonds yell, "Police!" PO Bulone came over to find a female in the shower. The officers holstered their weapons. PO Bulone stated that the female, later identified as § 87(2)(b) was allowed to get out of the shower and get dressed. He stated that she was allowed to dress in private and was not watched as she did so. Once she had dressed the officers explained to her why they were there and requested her identification. PO Bulone stated that § 87(2)(b) gave him a driver's license that had the location's address on it. PO Bulone stated that she only gave her driver's license as identification. He also stated that neither he nor the other officers ever referred to § 87(2)(b) as "§ 87(2)(b)". She told the officers that the three males did, in fact, live upstairs. SGT Marti came into the downstairs apartment and briefly spoke with § 87(2)(b). After determining that everything was all right, the officers left the scene. PO Bulone filled out a UF-250 for § 87(2)(b). He stated that there UF-250's were prepared for the males upstairs. § 87(2)(b), § 87(2)(b)

#### **PO Michael Edmonds**

PO Edmonds' memo book entries for this incident read as follows:

0930 – 31 § 87(2)(b)

0940 – 93Q

1037 – QAAB

On March 18, 2004, 10:52 AM, PO Michael Edmonds, shield number 4823, was interviewed at the CCRB. (enclosure 9) He stated that on January 30, 2004, he was assigned to patrol in sector A/B and working with PO John Bulone. At approximately 10:00 AM, they received a call concerning a burglary in progress. PO Edmonds and PO Bulone responded as the backing sector. When they arrived at the location, the officers searched the outer perimeter of the house. PO Edmonds stated that this search was to make sure the windows were closed and the doors were locked. They did not find any signs of forced entry. The officers then requested a callback from central. However, no callback could be obtained. PO Edmonds could not remember if the call specified which window the alleged burglar had entered. PO Edmonds stated that the caller had stated that she witnessed a person entering the house through a window and that she could see the person's feet sticking out of the window. He stated that he presumed that the person entered through a basement window, as the windows that were on the main floor were approximately twelve to fifteen feet above the ground. The officers went to the front door of the residence. An officer knocked on the door, which was answered by a § 87(2)(b)-old male. They asked if anyone else was home. The male responded that no one else was home. The officers then requested if they could come inside the residence. The male permitted the officers entry. The officers looked around the apartment, which was in disarray. Two males were found in the back room of the house. The officers questioned them as to who lives at the location and who lived in the basement apartment. Identification was requested from all three males. None of them could produce any identification that linked them to the location. The officers asked if anyone else was home. The males replied that no one else was home. PO Edmonds did not hear the males ever offer an explanation concerning the 911 call. Consequently, the officers remained suspicious that someone might still have been in the location that did not belong there. PO Edmonds also stated that he was unaware who lived upstairs and downstairs. PO Edmonds related that the two males spoke only broken English and were difficult to understand.

The officers then went to the upstairs apartment and knocked on the door. A woman who spoke very little English answered the door. The officers requested identification from the woman, who provided identification that linked her to the location. PO Edmonds stated that the woman kept repeating "something about her husband," but they could not understand what she was saying. The officers returned downstairs to find that SGT Ronald Marti and another sector had arrived on the scene. PO Edmonds stated that noise could be heard from inside the basement apartment. He said that he could hear "papers ruffling" and noise

that “raises your suspicion a little bit.” SGT Marti instructed PO Edmonds to go to the side door of the location and knock on it. PO Edmonds went outside and knocked on the side door for several minutes without anyone answering. When he returned inside, the other officers had opened the basement door by removing the latch that had been bolted to it. PO Edmonds stated that he was not present when this task was performed. He described the lock on the door as a makeshift lock that was bolted to the door. He stated that the knob on the door did not have a lock on it. SGT Marti ordered PO Edmonds, PO Bulone, and PO Chambers to search the downstairs apartment. The officers entered the apartment with their guns drawn and flashlights on, as it was completely dark. PO Edmonds saw that a door to one of the middle rooms was open and a light was on. PO Edmonds pushed the door open with his foot and raised his firearm. He found a woman, identified as § 87(2)(b) taking a shower. § 87(2)(b) was startled. PO Edmonds stated that he holstered his gun and told her to get out of the shower. § 87(2)(b) was told to get dressed. She was allowed to do so in private and was not watched by the officers. Once she was dressed, PO Bulone requested identification. PO Edmonds stated that PO Bulone and SGT Marti were the officers that primarily spoke with § 87(2)(b). PO Edmonds stated that neither he nor any other officers ever referred to § 87(2)(b) as “§ 87(2)(b).” § 87(2)(b) produced identification stating that she lived at the location. After the officers determined that everything was all right, they left the location.

### **PO Jason Chambers**

PO Chambers’ memo book entries for this incident read as follows:

1009 – 39 to 31 § 87(2)(b) 3 males found w/no I.D. for address, 1 male matched description of male seen by 911 caller climbing through window. All were giving inconsistent answers when asked what was the address of location. UF250 sprint #§ 87(2)(b) done for § 87(2)(b) positive i.d. by owner.

On March 22, 2004, at 11:15 AM, PO Jason Chambers, shield number 14419, was interviewed at the CCRB. (enclosure 7) He stated that on January 30, 2004, he was assigned to sector E/F and working with PO Bonnie Gerth. At approximately 10:09 AM, PO Chambers responded to a call concerning a suspected burglary at § 87(2)(b). He stated that there was a 911 call in which an individual was described climbing into the location through a “ground floor” window. When they arrived, PO Chambers and PO Gerth searched the perimeter of the residence for any signs of forced entry. After not seeing any open or broken windows and doors, PO Chambers, along with PO Gerth, PO Hofelich, PO Lamere, PO Bulone, and PO Edmonds, went to the front door of the residence. PO Chambers knocked on the door and a male between the age of 14 and 18 answered the door. PO Chambers asked if everything was all right and inquired as to whether the male lived at the location. The male responded that everything was fine and that he lived at the location. PO Chambers asked if the officers could enter the building. The male stated that they could enter. The officers entered and the male sat on the couch. PO Chambers requested his identification. The male could only provide a school identification card. PO Chambers then asked the male if he was alone in the house, to which he replied that he was. However, one of the other officers discovered that there were two males in the bedroom and instructed them to sit on the couch. PO Chambers asked them the address of the residence. None of the men could provide the proper address for their current location. Around this time, SGT Ronald Marti arrived on the scene.

PO Chambers was directed to go into the basement apartment. When he went down the stairs towards the apartment, the door was already open. He did not see any locking mechanism or damage to the door when he entered the downstairs apartment. PO Chambers was not aware if any officers had knocked on the door on the side of the house that lead to the apartment. PO Chambers went downstairs with PO Bulone and PO Edmonds. The three officers had their guns drawn as they searched the apartment. PO Chambers stated that he was standing behind PO Edmonds when he opened the bathroom door. They found § 87(2)(b) standing in the bathroom naked. PO Edmonds said, “Police, don’t move,” when he first discovered § 87(2)(b). PO Edmonds told her that everything was all right and told her to get dressed. The officers immediately holstered their guns when they realized that nothing was wrong. § 87(2)(b) was repeatedly asking PO Edmonds what was going on. PO Chambers stated that § 87(2)(b) was allowed to get dressed in privacy. PO Edmonds explained to § 87(2)(b) that there was a call concerning a burglary at the location and that they were investigating. PO Chambers was not aware of what else was said to § 87(2)(b) as he went upstairs and filled out a UF-250 for § 87(2)(b). He said that while

they were interviewing the three men upstairs, they continued to give inconsistent answers concerning where they lived and worked.

#### **PO Bonnie Gerth**

PO Gerth's memo book entries for this incident read as follows:

1009 – 10-39 § 87(2)(b) en route job upgraded 10-31, house searched, 3 males found w/ no ID one male seen climbing through window. SGT Marti on-scene. UF-250's prepared by myself, PO Hofelich, PO Lamere, PO Chambers. Warrant check on all, neg results.

1057 – 10-93Q

On March 6, 2004, at 11:10 AM, PO Bonnie Gerth, shield number 26360, was interviewed at the CCRB. (enclosure 13) PO Gerth stated that on January 30, 2004, she was assigned to sector E/F and working with PO Jason Chambers. She stated that at approximately 10:09 AM, she received a call from central concerning criminal mischief in progress at § 87(2)(b). While en route to the location, the job was upgraded to a burglary in progress. When PO Gerth arrived at the location several other units had already responded. PO Gerth and the other officers on the scene looked around the perimeter of the house to check for signs of forced entry. They did not find anything during the perimeter search, so they proceeded to the front door. They knocked on the front door and a male answered it. PO Gerth stated that the officers asked if there were any problems. The male responded by stating that he had locked himself out of the house and he had gained entry by climbing through the window. The officers asked the male if he had identification for the address. The male did not have any valid forms of identification. The officers then asked the male if he knew what the address was of the location. However, the male did not know the address. Consequently, the officers asked if they could come inside and the male agreed. The officers entered the house and asked if anyone else was home. The male stated that he was home alone. However, PO Gerth stated that there were noises coming from elsewhere inside the house. Some of the other officers present looked around the first floor of the house and discovered that there were two other males present in the house.

All three males joined the officers inside the front room and were questioned by the officers. None of the three males had valid identification and none of them could tell the officers what the address of the house was. PO Gerth characterized this as "very suspicious." The three males claimed that they had been living at the location for six months. PO Gerth remained in the living room with the three males and attempted to gather identifying information from them. She then went upstairs to the apartment on the second floor and knocked on the door. A woman answered the door who did not speak English well. The woman stated that she was going to call her husband. The husband appeared at the house shortly thereafter and joined the other three males in the living room. The husband did not have identification that stated that he lived at the location. However, he stated that the other three males lived there. PO Gerth stated that UF-250's were filed for all four males and warrant checks were conducted, which all came back negative.

PO Gerth was asked if the downstairs apartment was ever entered. She stated that she did not know, as she was in a different room for the duration of the incident. She claimed that she was not aware that there was a downstairs apartment. She stated that if a downstairs apartment was entered, she was unaware of it.

#### **PO Michael Lamere**

PO Lamere's memo book entries for this incident read as follows:

1010 – 39 § 87(2)(b) cmplt states she saw unk male go into ground fl window. Upon entering 3 males were in house, none of whom knew their address. Search of entire house yielded landlord in basement (unable to gain entry to door – broken in), a family upstairs. 4 UF250's prepared by sect C + E warrant checks yielded neg results.

1100 – 91 93Q 250's prepared

On March 30, 2004, at 11:25 AM, PO Michael Lamere, shield number 9987, was interviewed at the CCRB. (enclosure 12) He stated that on January 30, 2004, he was assigned to patrol in sector C and working with PO Lisa Hofelich. He stated that at approximately 10:00 AM, he responded to a radio run concerning a possible break-in. Specifically, the call was from an anonymous passer-by who witnessed a male crawl into a ground floor window of a house, located at § 87(2)(b). An officer made a request for a



callback on the scene, however no callback was available. When PO Lamere arrived on the scene one sector had already responded. PO Lamere and the other officers searched the perimeter of the house to see if there were any signs of forced entry. They did not find any. The officers then went to the front door and knocked on it. A male answered the door and allowed them to enter the house. All of the officers on the scene entered the house. Two other males were discovered by an officer in the back room of the house. PO Lamere stated that these three males all spoke English. The officers asked the males if they all lived at the location. They responded saying that they did. The males gave the officers identification. None of the identifications provided to the officers matched the address of the house. PO Hofelich went outside to run warrant checks on all of the identifications. The officers then asked the males what the address was. None of the males could tell the officers what the address of the house was. The officers asked who the landlord was, but did not receive a "straight answer." The officers proceeded to call their patrol supervisor to the scene. PO Lamere stated that a patrol supervisor was called because the men did not have proper identification, did not know the address of the location, were living on mattresses, and were living out of suitcases. § 87(2)(e)

§ 87(2)(b)

SGT Ronald Marti responded to the scene. PO Lamere went upstairs to the second floor residence and knocked on the door. A female of Middle Eastern descent answered the door. PO Lamere attempted to ask the woman if she knew the males who lived downstairs. However, the woman did not speak any English. PO Lamere went downstairs and informed SGT Marti of this. Approximately ten minutes later, a male arrived at the location claiming to be the husband of the woman who lived upstairs. The officers asked the male if the three males lived at the location and asked him who the landlord was. The male stated that the three males did live at the location, but he did not know who the landlord was. PO Lamere stated that the officers questioned the male concerning the basement. PO Lamere stated that he was not "giving a straight answer on the basement." PO Lamere stated that the door on the inside of the house that led to the basement was "padlocked." PO Lamere went outside to see if there were any other points of entry to the basement. He stated that he knocked on the side door, but there was no answer. When PO Lamere had reentered the house, one of the officers present informed him that they had gained entry to the basement. PO Lamere did not notice how the officers had managed to open the door. PO Lamere went down into the basement to find the officers "standing around." A woman, later identified as § 87(2)(b) was in the bathroom. PO Lamere described § 87(2)(b)'s demeanor as "surprised" at the time he saw her in the basement. One of the officers told her to put on some clothes and to come upstairs. The officers went upstairs and allowed § 87(2)(b) to dress in privacy.

The officers and § 87(2)(b) returned upstairs. SGT Marti explained to § 87(2)(b) why the officers were in her apartment and that they had knocked on the outside door before entering. PO Lamere stated that SGT Marti explained to § 87(2)(b) that the reason they had entered the basement was because they had to make sure that no one was in the building that should not have been there. This was based on the original radio run concerning a potential burglary. Once everything had been explained, the officers left the scene. PO Lamere did not hear § 87(2)(b) request that the officers repair her door. At some point during the incident, one of the males acknowledged that he had climbed through the window. However, PO Lamere could not place when the comment was made.

#### **PO Lisa Hofelich**

PO Hofelich's memo book entries for this incident read as follows:

1000 – 10-39 @ § 87(2)(b) complt. States she unk male go into left ground floor window. Upon entering 3 males were in house none of which knew the address of the home, where they were living, nor identification to match the address. Search for warrants conducted – neg results. Upon further investigation found landlord living in basement. Unable to gain entry to basement door, gained entry thru door, damaging molding, also found another family upstairs.

On March 14, 2004, at 11:20 AM, PO Lisa Hofelich, shield number 5730, was interviewed at the CCRB. (enclosure 10) She stated that on January 20, 2003, she was assigned to sector C/D and working with PO Michael Lamere. PO Hofelich stated that at 10:10 AM, she received a call concerning criminal trespassing at § 87(2)(b). Specifically, there was a complaint that a male was witnessed entering the location through a ground floor window. When they arrived they went to the front door of the house and knocked

on it. She stated that she was at the door with PO Lamere, PO Bonnie Gerth, and PO Jason Chambers. A male answered the door and asked the officers to come into the house. PO Hofelich stated that SGT Ronald Marti arrived at approximately this point in the incident. The officers asked him if he resided at the location and he replied that he did. PO Hofelich requested his identification, but he did not have any to present. Noise could be heard from further within the house. The officers asked if anyone else was in the house. The male stated that no one else was in the house. One of the officers present walked back to where the noise came from and found two other males at the location. The males came to the living room area where the officers were. PO Hofelich requested their identification. The two males produced identification. However, their identification did not bear the address of the location. PO Hofelich asked the males what the address of the location they were currently at was. None of the males could state the address of their current location. PO Hofelich stated that the youngest of the three males stated to the officers that he was the person who entered the house through the window. He claimed that he did not have a key, so he climbed through the window. PO Hofelich also recalled that the two older males might have been related. However, she could not recall what their relation was.

PO Hofelich took the identification that was presented and exited the house. She stated that she was the only officer to leave the house. Her partner did not accompany her to the RMP. She got into her RMP and conducted a warrant check on the three individuals. She remained in the RMP for the duration of the incident. PO Hofelich was not sure if she ran the license plates of any of the vehicles in the driveway of the residence. She stated that one of the officers inside the location came out to her to retrieve the results of the warrant check. She handed the identifications to one of the officers, who went to the front of the house and returned them to one of the males who was standing at the front door. When asked as to how she knew the molding of the door was cracked in order to enter the downstairs apartment, PO Hofelich stated that SGT Marti provided her that detail. She stated that she did not reenter the house at anytime and did not go into the downstairs apartment. PO Hofelich stated that she was present when the officers initially tried to enter the downstairs apartment, but discovered that the door was locked. She was not aware as to who made the decision to pry open the door and forcibly enter the apartment. She stated that she did not know any of the details of what occurred in the downstairs apartment, as she was not present. PO Hofelich claimed that a patrol supervisor, SGT Marti, was present on the scene and arrived prior to the entering of the location. She also stated that she filled out one UF-250 and believed that four were filled out in total.

#### Officer Identification

PO Bulone, PO Edmonds, PO Hofelich, PO Lamere, PO Chambers, and PO Gerth were all identified using the sprint report for this incident and the 105<sup>th</sup> Precinct tour two roll call. (enclosure 20)

SGT Marti was identified during PO Bulone's CCRB interview.

PO Plate was identified during SGT Marti's CCRB interview.

#### Documents

Five UF-250's for this incident were obtained. (enclosure 15) The worksheets were filed for the stopping and questioning of § 87(2)(b) and § 87(2)(b). All of the documents essentially state the same information and offer no new evidence concerning this case.

The Sprint report for this incident was obtained. (enclosure 17) The sprint shows that the 911 call was placed at 1007 hours. An anonymous female caller stated that she witnessed a male go into the location through a window. A callback was made at 1016 hours. The called stated that a male Hispanic or Indian with black wavy hair and a short coat, like a pea coat was standing on the steps of the house. The male then jimmied open the window and climbed inside.

The 911 call recordings were also reviewed. (enclosure 23) In addition to the information provided in the sprint report, the call on the recording reported that she saw the male climb into the "bottom window" of the house.

Photographs of the incident location were taken on April 15, 2004. (enclosure 18) Photo number one shows the four lower level windows in the front of the house. The basement windows are located at ground level,

while the windows looking out from the first floor are approximately six feet off the ground. Photo number two shows the basement windows that are facing the driveway, which are also at ground level. Photo number three shows the side door that acts as the entrance to the basement apartment. Photo number four shows the full frontal view of the house.

#### Officer History

SGT Marti has had two prior allegations made against him in his thirteen years with the NYPD. None of these allegations were substantiated. (enclosure 1)

PO Edmonds has had six other allegations made against him in his one year with the NYPD. These six allegations comprise two cases. All of these allegations are still pending. (enclosure 2)

PO Bulone has had no other allegations made against him in his one year with the NYPD. (enclosure 3)

PO Chambers has had two prior allegations made against him in his two years with the NYPD. These two allegations are still pending. (enclosure 4)

#### Prior Bad Acts

There was no record found for § 87(2)(b) in BADS.

#### Conclusions and Recommendations

**Allegation (A) – Abuse: SGT Ronald Marti authorized officers to enter and search the basement apartment of § 87(2)(b) in Queens.**

**Allegation (B) – Abuse: SGT Ronald Marti damaged § 87(2)(b)'s property.**

§ 87(2)(b) claimed that officers entered her apartment through the inside of the house. § 87(2)(b)'s apartment is on the basement level of a three-level house. The door leading to the basement in the interior of the house was locked using brackets and screws. The only way to open the door would have been to remove the screws or break the door. There is also a door leading to the basement apartment on the exterior of the house. This door is located on the side of the house. In order to gain entry to her basement apartment, the officers removed the locking mechanism from the door and managed to damage the molding in the process. § 87(2)(b) was unaware as to the events leading up to the entry, but felt that it was a violation of her rights when she found police officers in her apartment without her knowledge.

The officers offer varying stories as to how the decision was made to enter the basement apartment. What they do agree upon is that PO Chambers, PO Bulone and PO Edmonds went into the basement after forcibly opening the door. SGT Marti was the supervisor on the scene at the time the entry was made. SGT Marti denied that he “directly” ordered the officers to go into the basement, meaning that he did not instruct his officers to perform this action. However, PO Chambers, PO Bulone, and PO Edmonds all stated that they received a verbal order from SGT Marti to gain access to the basement and to enter it. PO Bulone recalled that SGT Marti told him that they “needed” to gain access to the basement. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) The officers from the 105<sup>th</sup> Precinct were responding to a call from an anonymous female 911 caller who stated that she witnessed a male Hispanic or Indian with black wavy hair and a short coat like a pea coat opening the “bottom” window of the house and climbing inside. § 87(2)(g)

When questioned as to which window the male was reported to have entered, the officers provided varying answers. PO Chambers, PO Hofelich, and PO Lamere all stated that the call concerned a person entering through the “ground floor” window. PO Bulone and PO Edmonds thought that the window specified was the “basement window.” SGT Marti stated that the male had entered through “a window.” § 87(2)(g)

When the officers arrived, PO Bulone, PO Edmonds, PO Chambers, PO Gerth, PO Lamere, and PO Hofelich all stated that they performed a search of the house's perimeter to check for signs of forced entry. All the officers stated that there were no signs of forced entry to be found. Once the perimeter search was completed, the officers proceeded to the front door, which was answered by an adolescent male of Middle Eastern descent, who permitted the officers to enter the first floor of the house. Once inside, the officers began to question the young male. The officers claimed that the male told them that he was alone in the house, but PO Bulone discovered two other males of Middle Eastern descent located in a room in the back of the house. These males were brought to the front of the house and seated on a couch with the male who answered the door. SGT Marti stated that none of these males spoke English. However, all of the other officers present agreed that, at least, the younger male who answered the door spoke English well enough to answer their questions. PO Bulone and PO Edmonds claimed that the two males found in the back room spoke only "broken-English."

PO Hofelich and PO Gerth both stated in their interviews that the young male who answered the door was quick to explain that he had forgotten his keys and climbed through the window to get inside the house, as he resided there. According to both officers, this statement was made soon after he answered the door. PO Chambers also noted in his memo book that the young male who answered the door matched the description put over the air of the person who was seen climbing through the window. However, SGT Marti stated that the officers only obtained this information after the entry to the basement was already executed. He claimed that the male who resided on the second floor, the only male present, who SGT Marti claimed could speak English, told him after the fact that the young male had climbed through the window. § 87(2)(g)

§ 87(2)(e)

All of the officers who were present stated that their suspicions were raised when they interviewed the three males who lived on the first floor. The officers all claimed that the males did not possess identification linking them to the address and they also could not tell them at what address they were currently residing. PO Bulone, PO Lamere, and SGT Marti all stated that the apartment was in poor condition. They also noted that the males were living out of suitcases and sleeping on mattresses. § 87(2)(e), § 87(2)(g)

§ 87(2)(g)

Some of the officers went to the second floor to interview the tenants up there. The male who lived on the second floor came home while the officers were interviewing the residents and explained to them that the three males on the first floor did, in fact, live there. However, SGT Marti was not satisfied with the information that he had thus far gathered. According to PO Chambers, PO Bulone, and PO Edmonds, SGT Marti ordered them to gain entry to the basement apartment. PO Edmonds went to the side door of the house and knocked on it for several minutes without anyone answering it. SGT Marti also stated that he instructed an officer to knock on the outside door. § 87(2)(g)

Without anyone responding to knocks on both the inside and outside doors, SGT Marti ordered his officers to forcibly enter to the basement apartment. SGT Marti claimed that he did not give the order to do this and was not present when the locking mechanism was removed from the interior door, but the other officer statements prove otherwise. SGT Marti claimed that he was interviewing the male that lived upstairs when his officer gained entry to the basement. Furthermore, he claimed that PO Plate came and told him to come

to the basement. However, PO Plate stated that he never entered the house at anytime. § 87(2)(g) PO Bulone stated that he obtained a screwdriver from one of the tenants and removed the lock from the door with it. He was the only officer who was on the scene who admitted to knowing how the lock was removed from the basement door. None of the officers interviewed ever stated that damage was sustained to the door as a result of the entry. However, PO Hofelich noted in her memo book that there was damage to the molding of the door due to the entry. § 87(2)(g)

§ 87(2)(g)

He stipulated that he was required to enter the basement because the alleged burglar could have been lurking in the dwelling. He defined this procedure as a “security sweep.” However, SGT Marti insisted on going into the basement with the knowledge that the young male who answered the door claimed to be the person who climbed through the window, that the same young male matched the description provided by the 911 caller, that there were no signs of forced entry on the exterior of the house, that the downstairs was a separate apartment, and that the side door was the formal entry of the apartment. § 87(2)(g)

Barry Kamins, in *New York Search and Seizure*, states that under the “emergency doctrine” “a police officer can enter a premises without a warrant to protect individuals in distress, to assist victims of crimes that have just occurred, or to investigate suspicious signs of impending danger.” (Kamins, *New York Search and Seizure*, 2004. pg. 333) Kamins goes on to explain the parameters defined by the court in which such an entry is permissible: “(1) the police must have reasonable grounds to believe that there is an emergency at hand, and that there is an immediate need for their assistance for the protection of life or property; (2) the search must *not* primarily be motivated by an intent to arrest and seize evidence; and (3) there must be some reasonable basis, approximating to probable cause, to associate the emergency with the area or property to be searched.” (Kamins, *New York Search and Seizure*, 2004. pg. 334) § 87(2)(g)

**Allegation (C) – Force: PO Michael Edmonds pointed his gun at § 87(2)(b)**

**Allegation (D) – Force: PO John Bulone pointed his gun at § 87(2)(b)**

**Allegation (E) – Force: PO Jason Chambers pointed his gun at § 87(2)(b)**

§ 87(2)(b) stated that she was taking a shower when she heard the handle to her bathroom door turning. She opened her shower door to see what was the cause of the noise. To her surprise, § 87(2)(b) found an

uncertain number of uniformed officers standing on the other side of the door all with their guns drawn and pointed at her. PO Edmonds, PO Bulone, and PO Chambers all stated that under the orders of SGT Marti, they entered the basement to search for a potential burglar. The three officers all state that when they entered the basement, they did so with their flashlights out and guns drawn. § 87(2)(g)

PO Edmonds stated that he opened the bathroom door, while PO Chambers noted that he was standing directly behind him as he did so. When they opened the door, PO Edmonds shouted, "Police, don't move!" Upon hearing this, PO Bulone rushed to the doorway. In all, three guns were likely pointed at § 87(2)(b) as she stood naked in the shower. PO Edmonds, PO Bulone, and PO Chambers all stated that they quickly lowered and holstered their weapons when they found § 87(2)(b)

PO Edmonds, PO Bulone, and PO Chambers were ordered to enter the basement by SGT Marti. The officers stated that they drew their guns for their safety, as their could have been a potentially dangerous person there. In *Police Department v. Gliner*, OATH Index No. 955/00 (Sept. 6, 2000), Administrative Law Judge Ray Fleischhacker states:

"While Specification 1 is couched in terms of an excessive use of force, there are no regulations or guidelines concerning the drawing of a weapon. The policy of the Department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's personal safety. This policy permits officers to discourage or terminate the attempted use of deadly force against themselves by providing them with a less drastic alternative to the actual use of a firearm. Thus, the Department permits an officer broad discretion to display his weapon whenever he feels that his life or the life of another is endangered."

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: